

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES L. GREGORY,

Defendant-Appellant.

UNPUBLISHED

February 25, 2003

No. 238480

Wayne Circuit Court

LC No. 00-010472-01

Before: Neff, P.J., and Bandstra and Kelly, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of aggravated assault, MCL 750.81a(1), and sentenced to a term of sixteen months' probation. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that the evidence at trial was insufficient to support his conviction beyond a reasonable doubt. This Court reviews a challenge to the sufficiency of the evidence by considering the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the elements of the charged offense were proven beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000).

In order to prove the offense of aggravated assault, a prosecutor is required to put forth evidence establishing an assault and battery by the defendant, inflicted with a specific intent to injure or put the victim in reasonable fear of an immediate battery, and causing serious or aggravated injury. *People v Johnson*, 407 Mich 196, 210; 284 NW2d 718 (1979); *People v Brown*, 97 Mich App 606; 296 NW2d 121 (1980). In challenging the sufficiency of the evidence to support these elements, defendant argues only that the evidence was insufficient to lead a reasonable person to conclude that he possessed the requisite intent. We disagree.

This Court has previously recognized that the specific intent necessary to support conviction of a criminal charge may be proven indirectly by inference from the surrounding circumstances, including the conduct of the accused. See *People v Lawton*, 196 Mich App 341, 349; 492 NW2d 810 (1992). Here, when viewed in a light most favorable to the prosecution, the evidence indicates the following circumstances surrounding the conduct for which defendant was convicted.

After being verbally chastised by the victim for driving too fast across a playground, defendant, a Detroit Police Activity League officer, exited his vehicle and angrily threatened to arrest the victim if she were to again raise her voice to him. When the victim retorted that regardless of who he was defendant should not drive in such a reckless manner in the presence of children, defendant grabbed the victim's arms and, after pushing her a short distance across the playground, "rammed" her several times into a gate. After managing to free herself from defendant when a witness to these events attempted to intercede, the victim ran into the lobby of a nearby building to call for help. Screaming derogatory remarks and claiming that the victim had struck him, defendant followed the victim into the building where, after catching up with her at a payphone, defendant grabbed her by the neck and then slammed her into a double-paned window with sufficient force to shatter the glass and lacerate the victim's face, shoulder, and hand.

Given the personal nature of the conflict between defendant and the victim, and considering testimony that defendant's conduct was inconsistent with the policies and practices of the Detroit Police Department for effectuating an arrest, we conclude that the trial court could have reasonably found that defendant acted with the requisite intent to either injure the victim or place her in fear of an immediate battery.¹ Although defendant denied ever intending to hurt the victim and purportedly passed a polygraph examination to that effect, we will not invade the province of the factfinder and assess credibility anew when considering the proofs in a light most favorable to the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). The evidence at trial was sufficient to support defendant's conviction.

Contrary to defendant's assertion, the trial court's findings in support of such conviction were similarly sufficient. Although a trial court, when sitting as the finder of fact, is required to state its findings and conclusions concerning contested matters either on the record or in a written opinion, MCR 6.403, the court need not make specific findings as regards each element of the crime to comply with the dictates of MCR 6.403. *People v Legg*, 197 Mich App 131, 134-135; 494 NW2d 797 (1992); see also MCR 2.517(A). A trial court's factual findings are sufficient as long as it appears that the court was aware of the factual issues and correctly applied the law. *Id.* at 134. Here, although the trial court did not comment on its findings regarding the intent necessary to convict defendant of aggravated assault, it specifically concluded that defendant did not intend to inflict great bodily harm, as required for a conviction of the offense of which defendant was originally charged. See MCL 750.84. The trial court's finding in this regard clearly indicates that it was aware of the factual issues presented by the evidence at trial. Given such a clear indication that the trial court was aware of the factual issues to be decided, and considering that a trial court sitting as the trier of fact is presumed to render a verdict

¹ In reaching this conclusion, we reject defendant's claim that testimony concerning the Detroit Police Department's policies and practices regarding arrests was improperly admitted by the prosecution as rebuttal evidence. Contrary to defendant's assertion, this testimony was properly admitted to rebut the defense theory that the victim's injuries were the unfortunate result of a proper arrest, rather than an assault. See, e.g., *People v Bettistea*, 173 Mich App 106, 125-126; 434 NW2d 138 (1988), wherein the panel recognized that the test of whether rebuttal evidence was properly admitted is not whether the evidence could have been offered in the prosecutor's case in chief, but rather whether the evidence is properly responsive to evidence introduced or a theory developed by the defendant.

representing a correct application of the law to the evidence presented, *People v Beard*, 171 Mich App 538, 543-544; 431 NW2d 232 (1988), we find that, although somewhat scant, the trial court's findings regarding the intent necessary to support defendant's conviction were sufficient. *Legg, supra*.

We similarly reject defendant's claim that, in convicting him of the lesser offense of aggravated assault, the trial court improperly held defendant, as a police officer, to a higher standard of conduct than an ordinary citizen. As noted by the prosecutor, although observing that public officials are generally held to a higher standard of conduct, the trial court expressly concluded that defendant's conduct on the day in question was excessive "by any standard."

We affirm.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Kirsten Frank Kelly